

## Information Sheet for Overseas Divorce Clients

This information sheet is designed to provide you with information about the divorce and Court process.

We ask you to take the time to read it carefully, and to contact us with any questions or queries before you make the important decision to go ahead with your case.

### The Divorce Process

You will have perhaps seen on our website the basic details of how a divorce is commenced through the courts, and how the case proceeds to the final Decree Absolute.

In a straightforward divorce, we prepare the petition, a detailed statement concerning any children and other relevant documents and file these at court together with the marriage certificate and a fee of £300. The court then allocates a case number, and posts copies of the papers to the other party. The other party is required to fill in a form, stating that they have received the papers, and making any further comments they wish, and to post this back to the court. Once the court has that form, we get a copy, and can then prepare your application for Decree Nisi. This is in the form of an affidavit, or sworn statement, which we will send to you with full instructions about how it has to be signed and witnessed. Once you send this back to us, we will file it a court with an application form, asking the Judge to consider granting the Decree Nisi. If he does so, it is then only a matter of waiting a further six weeks and one day from the date of the Decree Nisi, and we can then apply for your Decree Absolute. There is another fee of

£40 payable to the court on this application.

### Delays in the Process

However, there can be snags and delays which can cause upset and distress. Some of the most common problems are detailed below:

You do not have your original marriage certificate (this or a certified copy **MUST** be filed at court with the divorce papers at the first stage in the process)

This is not usually a problem, as we can obtain a certified copy from the Registrar of births, deaths and marriages in the UK, and civil authorities in most countries throughout the world. There is a fee of £25 for this, plus the cost of the certificate (£7 in the UK).

The Respondent (the other party to the divorce) fails or refuses to fill in and return the form of receipt to the court office.

This is fairly common, and does cause delays, and sometimes further expense. The court will not grant the Decree Nisi unless the Judge is satisfied that the Respondent has had the copies of the divorce papers that were sent to him/her by post by the court office. The Judge can only be satisfied of this if either the Respondent fills in and returns the form of receipt, or we prove in some other way that the papers have been served. Often we have to ask a private detective to actually go to the Respondent's home, and serve another set of papers on him/her personally. The private detective then has to let us have a sworn statement (an affidavit) confirming that he has done this, and we can then file

that at court. This adds time and additional cost (for the private detective) to the case.

### The Respondent has disappeared or you have no address for him/her.

If the Respondent disappears and cannot be found, things become even more complicated, and we might have to do such things as ask the Judge if we can place an advertisement in a newspaper, advising the Respondent of the existence of the divorce proceedings. We might also be required by the Judge to make enquiries of the Respondent's relatives and past employers. If the Judge is sure that a Respondent just cannot be traced, he will sometimes grant permission for the divorce to go ahead without the papers being served at all.

Woolley & Co, Solicitors offer a fixed fee divorce which covers all the usual steps up to and including Decree Absolute. It does not however cover private detective's fees, the cost of newspaper advertising nor the extra fees charged by the court each time we make any sort of additional application to the judge.

Your lawyer will always tell you as soon as any problems arise with your case, and will give you full details of any extra fees and costs before they are incurred.

Finally, please do remember that whilst a straightforward divorce where the other party cooperates throughout, can take as little as 14 - 16 weeks, where there are snags or problems the whole case can take many months.

### The Judge raises a query about domicile at the Decree Nisi stage.

This happens from time to time, but can be resolved in just about every case by a

short affidavit from the client stating that:

- He/she is a British citizen
- Has relatives/ties in Britain
- Is residing and working abroad for the time being
- That he/she regards Britain as their 'home' country
- Intends to return at some time in the future

It does not matter how far in the future that is, it is the intention that the Judge is looking for, not the time-scale.

Once the Judge has read such an affidavit, he will normally grant the Decree Nisi without further ado.

### Letting the Court Deal with Matrimonial Assets (ancillary case)

During the divorce proceedings, you might be completely unable to agree about financial and property matters, and would like to apply to the court for such things as maintenance, your fair share of the matrimonial assets such as the house and the other party's private pension.

It is important to realise that the court cannot deal with overseas assets except by way of a consent order, and so cannot make orders for the division, sale or transfer of any assets held abroad unless both parties agree about what should happen to those assets.

If an agreement cannot be reached on the division of matrimonial assets you need to embark on various stages of negotiation which may or may not involve the courts. Your lawyer will spend time consulting with you and corresponding with the other party's solicitor in an attempt to try and reach some sort of 'out of court' settlement.

If this can be achieved it is ratified by the court with a consent order but there is no requirement for the parties to appear in court.

If agreement cannot be reached you have the option of asking the courts to hear your case in which case there could

be at least two, and sometime three court hearings, which you will be required to attend.

Full details of the stages are given on the [Woolley & Co website](#).

This information sheet does not provide advice. Please do not take any action based on the information here without taking legal advice from a specialist family lawyer.

For more information visit [www.family-lawfirm.co.uk](http://www.family-lawfirm.co.uk)